



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR0441E1

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28th Session
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O. Eng.

Brussels, 7 July 2003.

POSSIBLE AMENDMENTS TO THE NOMENCLATURE WITH REGARD TO
THE ROTTERDAM CONVENTION

(Item III.A.5 on Agenda)

Reference documents :

NC0590E2, paragraph 38 (HSC/29 – Report)

NC0697E1 (HSC/31)

NC0634E1 (HSC/30)

NC0730E2, Annexes H/11 and N/1 (HSC/31 – Report)

NC0648E1 (HSC/30)

NR0440E1 (RSC/28)

NC0655E2, Annexes H/20 and M/8 (HSC/30 – Report)

NR0442E1 (RSC/28)

NS0080E3, Annexes A/17 and C/11 (SSC/18 – Report)

I. BACKGROUND

1. On 13 May 2003, the Secretariat received the following Note from the Customs Administration of **Argentina**. Due to its late arrival, it was distributed to the delegates to the 31st Session of the HS Committee as a non-paper (in English only). Acting on the Committee's instructions (see paragraph 4 of Doc. NR0440E1), the Secretariat has reproduced the comments received from **Argentina** in this working document.

II. NOTE FROM ARGENTINA

2. "The Customs Administration of **Argentina** contacts you with the aim of transmitting you its comments on the HS subheadings for products covered by the Rotterdam Convention, examined by the Scientific Sub-Committee at its 18th Session, in particular, with regard to toxaphene (camphechlor), binapacryl and pentachlorophenol. It is important to point out that such a circumstance arises from the study of the consulted bibliography (The Merck Index, 12th Edition) and its subsequent consideration in the Nomenclature.

Note : Shaded parts will be removed when documents are placed on the WCO documentation database available to the public.

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3. First, we share the view of the exclusion of toxaphene (camphechlor) (monography 9693 in the Merck Index) from Chapter 29, and consequently we reject the creation of subheading 2903.52. With regard to the inclusion of the said product in heading 38.08, the Administration of **Argentina** would like to note that this substance will fall in heading 38.08 if presented as an insecticide : in forms or containers for retail sale or as preparations or articles. All of them are defined in the heading text itself.
4. However, if the product is not presented in such forms, the substance “per se” must, in our view, be classified in subheading 3824.90, since it is a complex mixture. In the HS Commodity Database, maneb or mancozeb are classified in subheadings 3808.20 and 3824.90 based on the same criteria.
5. As far as the classification of binapacryl substance (monography 1265 in the Merck Index) is concerned, we are of the opinion that it falls in heading 29.16 (subheading 2916.19) by application of Note 5 (a) to Chapter 29 and in accordance with the HS Commodity Database. Consequently, we agree with the creation of new subheading 2916.19 as it was proposed in the HS Committee Report (see Annex M/8 to Doc. NC0655E2).
6. It is important to explain that the substance at issue is an ester with alcohol function falling in heading 29.08 and acid function falling in heading 29.16. We want to make clear that the compound is an unsaturated acyclic monocarboxylic acid (β,β -dimethylacrylic acid) which cannot be incorporated in subheading 2916.3 which covers aromatic monocarboxylic acids. Classification of dinoseb acetate is shared with this area.
7. Regarding the classification of pentachlorophenol in residual subheading 3808.90, we suggest to be re-examined since according to the consulted bibliography (monography 7242 in the Merck Index), the substance has a variety of uses and thus it may be considered as an herbicide of subheading 3808.30, as referred to in the HS Commodity Database, or as a wood preservative in subheading 3808.40.”

III. SECRETARIAT COMMENTS

8. As the Secretariat understands the Note from **Argentina**, the concerns refer to the draft Nomenclature amendments reproduced in Annex M/8 to Doc. NC0655E2 (HSC/30 – Report) and to the observations of the 18th Session of the Scientific Sub-Committee regarding this matter.
9. At the 31st Session of the HS Committee, the Chairman of the Scientific Sub-Committee explained that the classification questions raised in the Note by **Argentina** were addressed and discussed by the Scientific Sub-Committee (see paragraph 4 of Doc. NR0440E1). The Scientific Sub-Committee reached consensus on classifications of the three products at issue and has modified the draft amendments accordingly (see paragraphs 4, 9 and 16 of Annex A/17 and Annex C/11 to Doc. NS0080E3).
10. Furthermore, as the Scientific Sub-Committee had concluded in paragraph 17 of Annex A/17 to Doc. NS0080E3, in order to avoid difficulties in the identification of the different effects of certain multipurpose pesticides, it was recommended to create a separate subheading in heading 38.08 for product subject to the Rotterdam Convention.

11. On the other hand, the Secretariat would like to point out that the possibility of classifying camphechlor (toxaphene) presented in other forms than those specified in heading 38.08 and the appropriateness of their identification under subheading 3824.90 were not examined by the Scientific Sub-Committee. Consequently, if the Review Sub-Committee shares the view of **Argentina** that camphechlor when not presented in forms specified in heading 38.08 should be classified in heading 38.24 (subheading 3824.90), the question as to whether it should be separately identified in a new subheading under heading 38.24 should be considered.

IV. CONCLUSION

12. The Sub-Committee is invited to take account of the Note by **Argentina** and the Secretariat's comments above, when examining this agenda Item.
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